

Case 1:16-cv-01483-SHR Document 1 Filed 07/07/16 Page 1 of 50
IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

(Plaintiff's)

Requesting Appointment of
Counsel.

Kenneth R. Reid Head of Class Action # 11485-121

Kareem Millhouse #59904-066

Eric Haxton #16891-074

Brandon Holmes #73170-004

Samuel Gaines #55865-056

Mandriez Spivey #94155-020

Anthony Burnett #03870-049

Civil Action:

Class Action

FILED
SCRANTON

VS.

(Defendants)

JUL 07 2016

PER 
DEPUTY CLERK

WARDEN J. EBBERT

Medical staff: Jeana Mitterling, RN/M. Barner/J. Seroski/F. Fasciana
L. Potter/T. Lupold/m. Barth/L. Hartzel/M. Fahringer/S. Dees

Lieutenants: Lt. Shirk/Lt. Kemmier/Lt. Sailor/Lt. Condozer/Lt. White/
Lt. Miller/Lt. Scott/Lt. Sebal

Associate Wardens: AW. Davis/AW. Hozaple/AW. CUSINO

Correctional officers: Officer Rummel/officer Lytle/officer K. Stugart/
officer Hackenburg/Counselor Marr/Unit manager Wambledorf, Officer Bilinski

CAPTAINS: Capt. Taggart/Capt. Komkle

"CLASS ACTION"

BIVENS VS SIX UNKNOWN NAMED AGENTS OF
FEDERAL BUREAU OF NARCOTICS, 403 US 388 (1971)

Plaintiff's Complaint consist of Correctional officers, staff's
Misapplication of Restraints policy violation of PS 5566.06 AND
PS 3420.09 Standard of Employee Conduct violation/Const. Violation under the
8th Amendment Cruel and unusual punishment/Human rights violation
Plaintiff seeks punitive damages of 125 million dollars and Compensatory
damages of 25 million/15,000,000 Dollars and injunction to stop Punishment
by Restraints at USP Lewisburg, SMU Program to be discontinued, closed. ①

Class Action

The Class action joins all plaintiff's together all people who have been harmed in the same way as I have at the same prison. The Torturous tactic and misuse of the restraints at USP Lewisburg is equal to a slave Lynching and done by a bunch of white employees against Afro American inmates only. Staff do not mistreat the white inmates unfairly as they do the blacks. It's no secret in the big house the staff even outwardly make racist comments towards the inmates at the Lewisburg SMU Program. It's repeated punishment towards inmates who have violated a FBOP rule and have already served their sanctions and punishment handed down by DHO officers. The inmates are basically re-sanctioned by having to serve 18 months in the SMU Program and go through phase 1, 2, 3, 4 but the trick to this money scheme is that any staff can lie, falsify any type of 200-Series Incident Report and for any reason get that particular inmate set back to phase 1 over and over. Some inmates have been wrongfully held in the SMU Program for 4 or 5 years and some have been beaten, victims of excessive force, false Incident reports, Overzealous racial mistreatment

The Restraints have been used in a retaliatory fashion by Staff at USP Lewisburg routinely, and medical PAs and staff help cover up staff's misconduct and staff's Misapplication of Restraints at USP Lewisburg. The Class Action exposes the facts that in every case and will show a pattern in every case that medical staff alleged that the plaintiff's and inmates somehow manipulated the restraints and hurt themselves. Medical Staff's intentional cover up of falsification of the medical records of all plaintiff's and other inmates is intentional and obviously done from the records we now want to present to the Courts.

Medical care violated by medical staff

Plaintiff's did not receive adequate medical care after being taken out of Hard Restraints and on Ambulatory Restraints and as in some of the Plaintiff's situation they never got medical Attention or proper treatment (failure to treat) liability was even obvious in plaintiff's situations. Estelle v. Gamble 429 U.S. 97, 103 (1976)

Plaintiffs of Class Action

- 1) Kenneth Koshawn Reid ^{inmate numbers #I.D} 11485-171 Affidavit ☒
- 2) Brandon Holmes #73170-004 (Affidavit) ☒
- 3) Eric Houston #16891-074 (Affidavit) ☒
- 4) Kareem MilHouse #59904066 Affidavit ☒
- 5) Samuel Gaines #55865056 Affidavit ☒
- 6) Mandriez Spivey #94155-020
- 7) Anthony Burnett #03870-049 Affidavit ☒

(5)

Staff fabricated, falsified 200-series Incident reports against Plaintiffs in order to justify placing the Inmates/Plaintiffs in Ambulatory Restraints and Hard Restraints

Claims 8th Amendment Cruel and unusual punishment

- ☐ 8th Amendment cruel and unusual punishment
- ☐ UNIVERSAL Declaration of Human rights violation Article 5, 7
- ☐ failure to Act
- ☐ failure to Train
- ☐ Deliberate indifference
- ☐ Medical Malpractice
- ☐ Medical Negligence
- ☐ Falsification of Medical Records
- ☐ Campaign of Harassment
- ☐ Misapplication of Restraints
- ☐ falsifying Incident Reports
- ☐ Excessive misuse of equipment
- ☐ Due Process violation 14th Amend
- ☐ Excessive force
- ☐ Ex The use of excessive deadly reports to cause body harm to plaintiff in violation of 18 USC § 1001/3571
- ☐ mental torture and physical torture title 42 USC 1997(e)(e) violation

(6)

Under Program statement 5566.06
page 7, Restraint equipment or devices handcuffs
may not be used in any of the following ways:

- 1) As a method of punishing an inmate
- 2) About a inmates neck or face or in any
manner which restricts blood circulation or obstructs
the inmates airways.
- 3) In a manner that causes unnecessary
physical pain or extreme discomfort.

In *Wilkin v. Gaddy* US LER 2d 13054 1175
(2010) The use of excessive physical force against
a prisoner may constitute cruel and unusual punishment
even when the inmate does not suffer serious injury

In *Forrest v. Brine* 620 F3d 739 (7th Cir 2010)
Held the unnecessary and wanton infliction of pain
on a prisoner violates his rights under the Eighth Amend-
ment.

⑦ In All plaintiff's situations staff used excessive
physical force, unnecessary and wanton infliction of pain
and restricted blood circulation while using Restraints to
punish the plaintiff's and inmates

Protection from physical Brutality

The Basics: Guards do not have the right to beat you or harm you unless their action is considered "reasonable" given the situation

How can the misuse of equipment be even acceptable here at USP Lewisburg especially when it causes inmates "Permanent harms" such as Permanent Scars, Nerve Damage that is irreparable and vital to the inmates health. As if to say if a inmate breaks a rule or regulation he can be severely harmed or Killed in restraints or given nerve damage for life.

The use of force is excessive and violates the 8th Amend when it is not applied in an effort to maintain or restore discipline but is used to maliciously and sadistically to cause harm, where a prison official is responsible for unnecessary and wanton infliction of pain, the Eighth Amendment has been violated.

⑧ In the Plaintiff's case each plaintiff's was unnecessarily placed in Restraints to get harmed by staff as a type of punishment. Staff wanted to cause further harm to the plaintiff's in a retaliatory fashion for the plaintiff's rule breaking.

"Supreme Court Precedent" in support
Hudson v. McMillian 503 U.S. 1 (1992)

guards use of force violated 8th Amend when not applied in good-faith to restore Discipline, but to sadistically cause harm.

"Farmer v. Brennan" 511 US 825 (1994)

To bring a failure to protect claim you need to show deliberate indifference and this requires proof that

- 1) Gov. Guards Knew that there was substantial risk you would be seriously harmed and;

- 2) They failed to respond reasonably to protect you

- 1) The Warden is liable under "failure to protect"
Warden, EBBERT

- 2) The Captain is liable under "failure to protect"
Captain, Komkle, Taggart

- 3) The Lieutenants is liable under "failure to protect"
Lieutenant's Shirk, Lieutenant Scott, Lieutenant Kemmer
and more.

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Wilson v. Seiter 501 U.S. 294 (1991)

To meet the objective Eighth Amendment standard, you need or to show that you were deprived of a basic human need or exposed to serious harm.

Plaintiffs were denied Food, Toilet use, water for days at a time this is what makes the Torturas Act inhumane. Plaintiff's were forced to deficate and urinate on themselves while gassed, Cuts, bruises exposed them to infections and diseases. also no showers or hygiene for days.

Plaintiffs were exposed to extreme Cold temperatures when staff left the windows open when the plaintiffs were in restraints, the Temperatures were below freezing on some of the plaintiff's while laying in urine soaked clothes.

(10)

Summary of Civil Class Action

All plaintiffs who are on the class action have suffered severe torture of being placed in Restraints, Ambulatory Restraints or Hard Restraints unjustifiably by malicious staff, Luitenants who had the intention of causing the inmates/Plaintiffs extreme harm. Staff at USP Lewisburg used the restraints for punishment purposes against the inmates/plaintiff who were no harm to themselves and even some who were secured behind their cell doors. All plaintiffs were denied food, use of toilets, water for days 2 or 3 days while in Restraints. Staff's Misapplication of Restraints in violation of Policy Program Statement 5566.06, Standard of Employee Conduct and medical staff's falsification of the plaintiffs medical record, manipulation of their medical record was an attempt to help relieve the enforcing staff-Luitenants, staff to escape liability in this punitive torturous Act of placing plaintiffs in Hard Restraints and Ambulatory Restraints for punishment purposes without any type of official sanctions or Superior Authoritative lawful reasons.

And For Medical Staff's participation in the Restraint Torture of plaintiffs blatantly displayed a Deliberate indifference to plaintiffs serious medical needs and showed Negligence. Some plaintiff never recieved proper medical treatment because medical staff believed that because of the plaintiffs Mental illnesses that they would be unable to report the Scar's, bruises, Nerve Damage, cuts permanent scar's they recieved. All plaintiffs are similarly situated, and Tortured in the same ways some worse than others. Staff also left some inmates, plaintiffs with Belly chain cuts, bruises on their stomach and rib cages, sides around their bodies that are permanent (see inmate Spivey a mental

- mental ill inmate/plaintiff Look at his ribs.

Correctional officers and Luitenants would hollar insults and make racial comments to the plaintiff's while they were in inscruciating pains and severe cold temperatures many of these inmates and plaintiff's were teased and taunted by Lt Scott and Lt Kemmer and other Luitenents. Saying things like shit on yourself or piss on yourself boy, staff would also make homosexual comments to inmates, plaintiff's. In all of the Plaintiff's situations Staff falsified Incident reports against the plaintiff's to be able to falsily justify the plaintiff's being placed in the restraints. Even if staff feel like they have done no wrong the Act of using Hard Restraints and Ambulatory Restraints that Cause "inmates to get Nerve Damage" Scar's, bruises, Abrasions, cuts is a Severe Sanction for any inmate to have to suffer for a violation of FBOP rules and regulations that in any other USP would only result in an incident report against a inmate. But here at USP Lewisburg's SMU Program the disciplinary action of Restraints could cause a inmate to lose a Limb, or get Nerve damage or scars, bruises, cuts or Death is a very "EXtreme" and a violation of plaintiff's and inmates 8th Amendment of the Const under the United States Constitution, Cruel and Unusual punishment

The use of excessive deadly reports to cause bodily harm, injuries.

Correctional officers routinely write falsified Incident reports against plaintiffs and other inmates which caused the plaintiffs and inmates to be injured by Sert Teams and other staff who aggressively placed plaintiffs and inmates in Hard Restraints and Ambulatory Restraints unjustifiably. Staff violated title 18 USC § 1001/3571 false statement violations which are criminal. All white police lies is the reason why All black lives are dramatized.

All staff knew that their falsification of Incident reports would lead to the inmate being placed in Hard Restraints and or Ambulatory Restraints and harmed. In plaintiff Kenneth Reids situation the same Correctional officer Lytle who falsified the Incident reports on 2-10-16 is the same officer who also participated in placing plaintiff Reid in Hard Restraints. Officer Lytle was present each time that plaintiff Reid was placed in restraints. The officer also was the same officer who took plaintiff Reids meals and threw them away several times. Counselor Marr also fabricated and falsified statements against plaintiff on 12-4-15 and participated in plaintiffs UDC hearings to make sure plaintiff was found guilty and was with the Sert Team who placed plaintiff in the Hard, Ambulatory restraints. Counselor Marr falsified statements during plaintiffs UDC hearing that were incriminating for plaintiff Reids DHO hearing and UDC hearing. Counselor Marr did this to cause bodily harm and a Set back of plaintiffs phase Level back to phase I. It was all a team effort to harm plaintiff.

Calculated use of force violations by staff

Staff violated §552.23 which says: in part (B) Calculated use of force (Staff must first determine if the situation can be resolved without resorting to force.

(2-10-16 Incident)

Staff violated §552.23 The Confrontational Avoidance Clause/ procedure. Lt Scott violated this clause in the 2-10-16 Incident because plaintiff Reid attempted to give the Luitenant and Staff officer Lytle the Security matrriss that Lytle had alleged that plaintiff refused to give him. If Lt. Scott would have excepted the matrriss the use of force could have been avoided.

Page 1 of 3

AFFIDAVIT

PENNSYLVANIA STATE

County of Union } scilicet
}

Indeed no more than (Affidavits) is necessary to make the Prima facie case "United States v. His, 658 F. 2nd, 526, 536 (7th Cir 1981) Cert Denied, 50 U.S. L.W. 2169, S. Ct. March 22, 1982

That I, Brandon Jacquay Holmes, a living breathing man being first duly sworn depose and say and declare by my signature that the following facts are true to the best of my knowledge and belief.

That, on November of 2011, I arrived at the SMU/Special Management Unit located at United States Penitentiary Lewisburg Pennsylvania.

That I, sense my arrival at USP Lewisburg have witnessed and experienced both mental and physical brutality from both federal correctional and mental employees in the form of the misapplication of the full body restraints, use of chemical pepper spray gas, physical assaults and verbal abuse and the form only to inflict and cause pain and injury.

(5)

Page 2 of 3

Affidavit by Brandon Holmes
73170-004

That I, have witnessed and experienced mental and physical brutality where federal correctional officers have falsified government documentation stating I have threaten a staff member (code 203) just to place me in full body restraints.

That I, once placed in full body restraints by the use of force team, I experienced physical brutality where the restraints were applied extremely tight, causing injuries of nerve damage to the wrists and ankles of my body. large superficial laceration to the hip and stomach area. lacerations causing life time scar's to the wrists and ankles along with swelling and extremely serious pain where the restraints and chain were applied.

That I, have complained of medical staff who have witnessed my injuries and who have failed to document, treat, or report my injuries to a higher authority. Medical staff have either participated or turned the other cheek when this type of misconduct takes place at this institution by correctional officials or there own medical co-workers. There has been times while being in full body restraints where I was refused the right to have my meals or use the restroom and had to piss or sit in my own feces for days at a time. Because staff and medical employees continued to falsify government documentation by stating in their reports that im still being unruly in order to justify keeping me in full body restraints for long periods of time in order to continue to inflict pain and cause injury.

(16)

Page 3 of 3

Affidavit by Brandon Holmes
73170-004

That I, am willing to testify on the stand at any court in this country that every word mentioned in this affidavit is a common practice at this institution and does not even amount to 30% of the physical and mental brutality that I have experienced at the hands of my so-called caretakers while being incarcerated at this institution by staff and my belief to demoralize my spirit as a living flesh and blood man.

further Affiant sayth not.

Acknowledgement

In compliance with Title 28 U.S.C. § 1746(1), and executed WITHOUT THE UNITED STATES, I Affirm under the Penalties of Perjury, and to the laws of the De Jure United States of America, that the foregoing is true, correct, and complete to the best of my belief and informed knowledge. And further the affiant sayth not. I now affix my signature and official seal to the above document with EXPLICIT RESERVATION OF ALL MY UNALIENABLE RIGHTS, without prejudice to any of those rights, in compliance with UCCS 4-308:

Date June 6th 2016

Brandon Holmes

Brandon Holmes ©

Secured Party Creditor

Authorized Representative for and in
Behalf of BRANDON HOLMES ©

Without Prejudice

(17)

Affidavit "Sworn Statement"

On 6/20/16 I was in my cell cell 305 in Unit Standing by the sink Naked getting ready to wash up when all of a sudden officer Bilinski appeared at my door asking to speak to inmate Spivey my cellmate. I told officer Bilinski that I was naked and about to wash up, officer Bilinski stated "I don't care about that I need to ask Spivey if he wants to see psychology. I then attempted to cover myself, cover my penis up, because Officer Bilinski was looking down at it. So I then pulled my boxers up and on and cursed Bilinski out calling him gay. Bilinski never gave me anytype of Order or anything like he fabricated in the Incident report. I pulled the Blanket down so he could speak with Spivey Spivey told him yes, he wanted to speak to psychology, Officer Bilinski never said a word to me at all. I later recieved a incident report for a 205 Engaging in a sexual Act and a 300 series Incident report for Indecent Exposure, I cursed Bilinski out and thats why he falsified, fabricated the Incident Reports against me. Time incident occurred around 11:00 to 11:45 AM or 11:30 AM (See Camera footage) The officer committed Voyeurism against me. Bilinski is retaliating against me for officer Hackenburg, Rummel, Lytle

Certificate of Service

I Swear under the penaltie of perjury that the foregoing is true to the best of my Knowledge and correct under the laws of the United States under title 28 USC § 1746 Kenneth R. Reid

Kenneth R. Reid 11485-171 inmate no
USP Lewisburg
P.O. BOX 1000

Lewisburg, PA, 17832

(18)

AF Affidavit

ON 10-26-14 I was written a 200 Series Incident report and placed in Restraints the restraints were placed on me so tight it cutt off my blood circulation and caused my hand, wrist to swell up within minutes. Staff's misapplication of Restraint. Caused me to have permanent scars and Nerve Damage in my wrist, hands. I Requested and asked medical to tell the Cuitenants to loosen the cuffs but they wouldn't. Staff refused to let me use the toilet and refused me my meals I didnt eat for days or get water. I was forced to urinate and deficate on myself and had to lay in urine and feces soaked clothes for days. All of medical Staff and psychology Staff were aware of my condition and refused to intervene or help its as if they were all in cahoots with this Torturous Act being done to me. The Belly chains are even placed Strategically tight to hurt the inmates ribcage and caused bruises ~~around~~ around the waistline of some I never manipulated restraints at any time, but medical Staff and Cuitenants placed in ~~order~~ the comments in the medical record that I did in order to escape Liability. They said they wold get away with it.

Certificate of Service

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the united states and title 28 USC § 1746 Samuel Earl Gaines 6-8-2016

Motion to of Affidavit to whoever it

CONCEPTS - From Mr Houston 16891-074 - a

prisoner of war - at usp Lewisburg still ^{are} maliciously
held against my free will restrained from
his personal liberty - still - I quote the USE OF
deadly weapons ie restraints at Lewisburg - did

[Body harmed] Mr Houston with life threatening (ie)
injuries - that cannot never be replaced nor
restored - now - can't shit - eat - sleep - or piss
nor drill this all lead from this case Crosby
CASE - 42 USC 1997e(e) 42 USC 18607 c(2) - SEE

this on all live calls common complexes in re
usable new issues - for life - I say all the
trust social path medical staff does this
see this - Estelle v. Gumble 1976!! not since
dealing with these wicked domestic pranksters

at Lewisburg when they all is - in in to society
no repairable damages to Mr Houston civil rights
ts - which is his own life - I also quote if fake
& scandals just of cases - in his medical files the
Lewisburg BoP did it oh we all know so - 1746
I swear all is what it is your truest Best
client material witness - Peace/Respect - Eric

(21)

Affidavit of Anthony Burnett, #03870-049

Incarcerated At usp Lewisburg's Smu. Po Box 1000, Lewisburg, PA 17837

I, Anthony Burnett, Hereby Stat That The following is true to the Best of recollection and memories.

- 1.) on 12-11-13 I was attacked By Co's Then placed into 4 point restraint and Given a incident report I was Taken & put into ambulatory restraints after 4 point restraints which cut into my wrists ankles and waist. incident report Given.
- 2.) on 2-15-14 I was jumped By Same Co's and The put into ambulatory restraints inwhich it cut into my wrist, ankles and waist. incident report Given
- 3.) on 7-14-14 I was jumped again By Co's coming out of Shower and Then placed in ambulatory restraints inwhich They cut into wrists, ankles and waist. incident report Given.
- 4.) on 10-22-14 I was put into ambulatory restraints (after a tactical team shot pepper spray into cell) and was left there in which it cut into wrists, ankles and waist. incident report Given
- 5.) on 10-30-14 I was again jumped and placed into Ambulatory restraint inwhich it cut into my wrists, ankles and waist. incident report Given
- 6.) on 11-20-15 I was jumped By Staff and placed in ambulatory restraints inwhich cuts into wrists, ankles and waist were made By tightness of restraint. incident report Given

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7.) on 4-28-15 I was attacked/jumped By Staff and 4 pointed Then placed into ambulatory restraints in which restraints cut into wrists, ankles, and waist. incident report Given.

8.) 5-15-14 I was Put into 4 point restraints and Then into ambulatory restraints in which Both times in restraints I recieved cuts to my wrists, ankles and waist. incident report Given.

9.) ~~3-20-2015~~ in September 2015

There is more incidents That occurred in which I was placed into ambulatory restraints and left with The restraints as tight as they could go and as a Direct result I incurred Bruises to my wrists, ankles and waist from The application of The restraints. Other Dates and times will Be furnished at a later Date. aswell as exhibits.

I certify The above is true to The Best of my knowledge and memories, signed under the pains and penalties of perjury. #1746 title 28 USC § 1746

Dated: 6-21-16

Anthony Bernotas
Signed

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Affidavit of Kareem Milhouse, # 59404006

Incarcerated at USP Lewisburg's SMU. PO Box 1000, Lewisburg, PA 17837

I, Kareem Milhouse, hereby state that the foregoing is true and correct to the best of my recollection, knowledge and ability;

1. on approx. May 4, 2009 while at USP Lewisburg's SMU I was put inside ambulatory restraints and written incident report for threatening.
2. on approx. Nov. 19, 2010 I was put inside ambulatory restraints and written incident report for threatening.
3. on approx. Feb. 5, 2011 I was put inside ambulatory restraints and written incident report for threatening.
4. on each occasion the incident report for threatening was falsified and fabricated in order to justify the usage of restraints.
5. the application of those restraints was egregious and intended to cause physical harm in order to intimidate, punish and set example for other prisoners.
6. As a direct result I received bruises, cuts, scrapes, nerve damage and swollen limbs as a direct result of the tightness of the restraints on wrist, ankles and abdomen. see sick call request exhibit A.

I certify the above is true and correct to the best of my knowledge and recollection. Signed under penalty of perjury.
Dated: June 10, 2016 title 28 USC 1746

Kareem Milhouse
(Signed)

Exhibit A P. 1 of 3M: Houder,
59904066

11/20/10

A1

D-124

Sick call

I fell attempting to get on the TOP bunk while in restraints on 11/19/10.

I hurt my right wrist and side of abdomen. I had trouble breathing and told medical and the Lieutenant when my restraints were checked. Once I got out of restraints I was suppose to be evaluated but wasn't. my wrist is swell

Thank you

11/23/10

Ferdinand N. Alama, MLP

checked by Paramedic Wells on 11/19/2010 -

Milhouse, K. 59904066

D-124

11/24/10

A2

Sick call,

I need pain medication \pm hurt
my right wrist and right side
of abdomen when I was in
restraints because they wanted
to fight and I fell trying to
gain access to the top
bunk bed since I had a
cellmate in restraints as
well. I still have bruises on
my wrists and abdomen and
my right wrist is swollen.

This is the third sick call
I submitted and still have
not received any responses.

Thank you,

K. Milhouse

Ferdinand N. Alama, M.P.

Lecturer

Exhibit A

P. 3 of 3

m. / house, a separate

D124

11/29/10

A3

Sick call

I submitted multiple sick call requests because when I was in restraints 11/19/10 I had a cellmate in restraints as well and injured myself trying to get on the top bunk in addition to the restraints being on too tight. I still have bruises and scrapes where the restraints were.

11/30/10

Ferdinand N. Alama, MLP

**Bureau of Prisons
Health Services
Clinical Encounter**

Exhibit B

Inmate Name: GAINES, SAMUEL
Date of Birth: 09/24/1983
Encounter Date: 02/05/2015 15:06

Sex: M Race: BLACK
Provider: Jordan, Jodi PA-C

Reg #: 55865-056
Facility: LEW
Unit: D03

Injury Assessment-Not Work Related encounter performed at Special Housing Unit.

SUBJECTIVE:

INJURY 1 **Provider:** Jordan, Jodi PA-C

Date of Injury: 02/05/2015 02:55 **Date Reported for Treatment:** 02/05/2015 15:06

Work Related: No **Work Assignment:** UNASSG

Pain Location:

Pain Scale: Refused

Pain Qualities:

Where Did Injury Happen (Be specific as to location):

D block cell 321

Cause of Injury (Inmate's Statement of how injury occurred):

Observed Inmate swallow AA Duracell Battery

Symptoms (as reported by inmate):

"I want to see Psychology so I am going to swallow these 2 batteries (Duracell AA x 2) right in front of you."
Inmate ingested 1 Duracell AA battery without difficulty, smiled and shrugged his shoulders.

ROS:

General

"I want to see psychology"

Denies any suicidal or homicidal ideation.

OBJECTIVE:

Respirations:

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Provider</u>
02/05/2015	15:08 LEW	18	Jordan, Jodi PA-C

Exam:

General

Affect

Yes: Pleasant

No: Cooperative

Appearance

Yes: Appears Well, Alert and Oriented x 3

No: Appears Distressed

Inmate standing at cell door, speaking in full sentences in NAD. IM swallowed 1 of 2 Duracell AA batteries and smiled.

Skin

General

Yes: Dry, Skin Intact

Pulmonary

Observation/Inspection

No: Apneic, Respiratory Distress

Cardiovascular

Inmate Name: GAINES, SAMUEL
Date of Birth: 09/24/1983
Encounter Date: 10/26/2014 20:00

Sex: M Race: BLACK
Provider: Schoonover, Amy J RN

Reg #: 55865-056
Facility: LEW
Unit: D01

PLAN:**Disposition:**

Follow-up at Sick Call as Needed

Patient Education Topics:

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
10/26/2014	Counseling	Access to Care	Schoonover, Amy	No Evidence of Learning
10/26/2014	Counseling	Safety/Injury Prevention	Schoonover, Amy	No Evidence of Learning

IM advised of the dangers of manipulating the restraints to include: Nerve damage, circulatory compromise, abrasions and other open wounds and loss of limb.

Copay Required: No

Cosign Required: Yes

Telephone/Verbal Order: No

Completed by Schoonover, Amy J RN on 10/26/2014 21:23

Requested to be cosigned by Edinger, Andrew MD.

Cosign documentation will be displayed on the following page.

Misapplication of Restraints (PS 5566.06)

✓ ON 12-4-15 The Ambulatory Restraints were placed on my wrist extremely tight and caused bruises, cuts, Abrasions on my wrist. I was given "Antibiotic Ointment" by RN for scars on wrist, but wasn't treated for "Nerve Damage" And Common complex irreversable Nerve issues)

□ ON 2-10-16 I was placed in Hard 4 point Restraints on my wrist and ankles extremely tight and the Misapplication of the Restraints caused my hands to swell up, ankle to swell up and caused cuts, bruises Abrasions (permanent cuts) on my wrist, ankles and later caused my Ankle to become infected. I was later 14 days later given "Oral Antibiotics and Antibiotic Ointment". But wasn't treated for "Nerve Damage" even though Lupold diagnosed me with it, said it was obvious Common complex irreversable Nerve damage

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Plaintiff Reid's placement in Restraints twice cause severe nerve damage that has been untreated for 5 month now.

To decide what force is excessive, judges consider

- 1) The need for force
- 2) Whether the amount of force used was reasonable given the need,
- 3) How serious the need for force appeared to the guards
- 4) Whether the guard made efforts to use as little force as necessary and,
- 5) How badly you were hurt,

(25) (25)

falsification of Medical Record

The interviews of medical staff after incident proves that there was a falsification of the medical records by the Luitenants. All medical staff said that they did not make the comments in the Medical Record they stated that that's what was already in the Luitenants Log already. Making the Luitenants the Culprits. The Luitenants manipulated the medical records in an effort to avoid liability for intentionally hurting inmates with the excessive use of Restraints to punish the inmates and in which their Misapplication of Restraints would intentionally cause harm, excruciating pains to inmates and put scars on the inmate body's that are permanent and cause "Nerve Damage" to the inmate. Or lost of limbs. Staff at USP Lewisburg have a history of Misapplication of Restraints incidents with inmates because this torturous act is intentionally done to punish inmates.

(206) (26)

(See interviews)

5-4-164Proof of Medical Manipulation of Record
to protect the Luitenants liability

☐ On MAY 4th 2016 Approximately 3:41pm-3:45pm
I asked PA Powder about the Comments that were
written in my medical Record where it said that he
said I cursed him out. Powder said that he didn't
write that that that's what the Luitenant already
had written in the log. He said that's what was already
written in the Luitenant Log.

☐ On May 5th 2016 At Approximately 8:00am ^{Between} 8:15am
I spoke with Ms Seroski and asked her about the
Comments she supposedly had written in my medical record
and she denied making them. She stated "that's what
was written in the Luitenants Log book already."

☐ On time 6:34 and 6:29 am Mr Seroski PA told me that
I won't get treatment unless I stay out of Restraints
she basically blamed me for my injuries

☐ 5-11-16 Talk to PA Seroski about denying
me medical Attention, Treatment for my
Nerve Damage. Told her I was having Blood Circulation

(27) ☐ 5-18th, 19th I talk to PA Seroski around and Complained
about my Jaw injuries and gave her a COFUT on my
Numb-ness in my hands, wrist

Negligence

Lt. Scott was negligent because Plaintiff repeatedly asked him to loosen handcuffs and that they were too tight and were going to cause scars, had so.

Officer Lytle was negligent because he knew by falsifying the 203 threatening incident report that plaintiff would be put in restraints and in pain for days and suffer. Lytle also knew that plaintiff would lose Good time credit, Commissary, mattress restriction, visitation lose, Privileges lose.

Lt. Scott knew that Plaintiff was attempting to give him the mattress back and refused to except it he'd rather place inmate/Plaintiff in Hard restraints to cause him excessive harm to his body.

Lt. Scott shot Plaintiff several times with a device that left scars on Plaintiff's body on the back of his arms, back area breaking the skin and threw explosives inside the cell to further hurt plaintiff instead of opening the door to restraint inmates.

Lt. Scott repeatedly entered the restraint room and reapplied Hard restraints and readjusted them tighter and tighter than they were even when other Lieutenants had the restraints Loosened Lt. Scott would re-tighten them to cause harm to Plaintiff on his visits, and make Verbal threats and comments.

(Lt Scott violated Confrontational Avoidance clause)
Lt Scott failed to use reasonable care with Plaintiff

Lt Scotts - Duty was to make sure the inmate is not harmed by equipment

Breach - was for the Lt Scott to go against policy and violate avoidance clause

Cause - he tightened the handcuffs on plaintiff

Damages - Plaintiff suffered Scars, bruises, Abrasions "Permanent Scars"

SIA (Incharge of Staff
misconduct)

On 2-10-16 Correctional officer Lytte and Lt Scott falsified two Incident reports against me one for 203 Threatning, 307 Refusing an order Staff falsified these incident reports to justify placing me in 4-point Restraint as a way to get back at me or retaliate against me "because I responded verbally to Lytes inappropriate, racist comment. Anyway staff used excessive lethal Explosive force" They actually threw explosives inside my cell. I was placed in 4-point restraints for 3 days and forced to lay in my feces and Urine for 3 days drenched in urine which also burned my cuts, eyes, body for three days. The burning sensation was unbarable and the bruises were unattended. Medical staff were in cahoots with the Torturers Acts of Correctional staff who taunted, laughed at Inmate Reid as they twisted, pulled on his restraints that were so tight that they cut off the blood Circulation in Reid's hands, arms, feet, wrist. Because of staffs misuse and Misapplication of restraints the restraints caused severe Scar's on Reids wrist, ankles, legs, arms.

"I was forced to lay in feces, urine soaked clothes for 3 days Please investigate in 4-point restraints

REID

(28) (29)

On 2-10-16 I was placed in 4-point restraints as a punishment by Correctional staff that said I verbally threatened them when I didn't. Lt. Scott, officer Lyte falsified 203, 302 Incident Reports against me Lying to try to justify a reason to hurt me.

This is the second time staff have used Ambulatory restraints and 4 point restraints to hurt me or excessively punish me. Staff use these restraint tools to retaliate against me. Staff "Tortured" me in a downstairs basement for two days in the 4-point restraints. I was forced to Urinate and Defecate on myself for 2 days straight. Staff kept coming in the cell pulling on my legs, limbs knowing that I was in excruciating pain and injured, had been shot with riot guns, gas, pepper spray and explosives were used to attack me inside my cell. Staff did this to me and laughed about it like it was funny, Taunted me calling me stupid Nigger, Mongrel

I was forced to lay in Urine and feces and gas Soaked Clothes deprived of food for 2½ days. Staff Violated my "Humane Rights" Article 5

~~30~~ (30)

Article 5

(NEED HELP)
ASAP

Inmate Kenneth Roshawn Reid's mistreatment by staff at USP Lewisburg's Smu Program was actually Torture on 2-10-16 and a violation of his Human rights under Article 5, 7 (Says "No one shall be subjected to torture or Cruel, inhuman or degrading treatment or punishment.

On 12-4-15 and 2-10-16 Inmate Reid[#] 11485-171 was placed in hard restraints and Ambulatory restraints that were so tight that they cut off Reid's blood Circulation and caused Reid's hands, wrist, ankles to swell up, the tight restraints caused Abrasions, Cuts on Reid's legs and wrist. Staff's Misapplication of Restraints and violation of Policy (PS) 5566.05 caused all of this, Staff forced inmate Reid to Defecate and Urinate in his clothes and left Reid in his Urine and feces, Soaked clothes for 2 1/2 3 days Smelling, Staff deprived Reid of Food, Toilet, Water for 2 1/2 days to torture him further. Staff Violated Article 5, 7 and Human Rights of inmate Reid.

(Sworn under Oath)

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the US. and title 28 USC § 1746 sign: Kenneth R. Reid

Kenneth Roshawn Reid
11485-171

USP Lewisburg

P.O. Box 1000

Lewisburg PA, 17837

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Liability

All Luitenants are liable under "Failure to protect" which 1) Guards knew that there was substantial risk you would be seriously harmed and;
2) They failed to respond reasonably to protect you
(Luitenants falsified the Medical Records, Comment section)

All Medical Staff are liable for "failure to treat," Medical Negligence, the Deliberate indifference shown or displayed towards my serious medical needs, lack of Medical treatment, Not bringing any medication for 14 days after the 2-10-16 Incident of placing inmate Plaintiff in Hard restraints then in Ambulatory restraints. As a result Plaintiff's Ankle became infected

Medical Staff violated Plaintiff's right to Medical care

Failure to treat case (Hill v DeKalb Reg 1 Youth Det Ctr 40 F3d 1176, 1187 (11th Cir 1994), Estelle 429 US at 104
Jett v. Penner 439 F3d 1091 (10th Cir 2006))

Parties + Dutys

- ☐ Officer Lytle: Correctional officer in USP Lewisburg
Officer Lytle is being sued in his Individual Capacity and
Official Capacity. (Falsified Incident Report)
- ☐ Officer Rummel: A Correctional officer at USP Lewisburg
Officer Rummel is being sued in his Individual Capacity
and official Capacity. (Falsified Incident Reports)
- ☐ Officer K. Stugart: A correctional officer at USP Lewisburg
Officer K. Stugart is being sued in his Individual Capacity
and official Capacity. (Falsified Incident Reports)
- ☐ Officer Holmes: A Correctional officer at USP Lewisburg
Officer K. Stugart is being sued in his Individual Capacity
and official Capacity. (Blocked Camera View)
- ☐ Lt. Scott: A Lieutenant Scott is the Luitenant at
USP Lewisburg he is being sued in his Individual Capacity
and official Capacity. (Misapplication of Restraints and Assaulted
+ Batter Plaintiff with equipment, (used Excessive force.))
- ☐ Officer Hackenburg: Is a Correctional officer at USP
Lewisburg. Officer Hackenburg is being sued in his official
and individual Capacity for "falsified Incident reports," Use of
excessive deadly reports, Racial profiling, slander

Parties

Medical Dept Staff.

- ☐ Lupold: Todd Lupold PA: is a PA at USP Lewisburg in the Medical Dept he is being sued in his official Capacity and Individual Capacity
- ☐ Jennifer Seroski: is a PA-C at USP Lewisburg in the Medical Dept. she is being sued in her official Capacity and Individual Capacity
- ☐ Francis Fasciana: is a MLP at USP Lewisburg in the Medical Dept. he is being sued in his Official Capacity and Individual Capacity
- ☐ L. Potter: is a EMT-P at USP Lewisburg in the Medical Dept. He is being sued in his Individual Capacity and official Capacity
- ☐ Matthew Barth: is a EMT-P at USP Lewisburg in the Medical Dept. He is being SUEd in his Individual Capacity and official Capacity
- ☐ Lori Hartzel: is a RN at USP Lewisburg in the Medical Dept. she is being sued in her Individual, official Capacity
- ☐ Matthew Fahringer: is a NRP at USP Lewisburg in the Medical Dept. He is being sued in his Individual, official Capacity
- ☐ S. Dees: is a NREMT-P at USP Lewisburg in the Medical Dept. She is being sued in her Individual, official Capacity

- Mr. Barnen: is the NRP at USP Lewisburg Medical Dept and he is being sued in his Individual, official Capacity
- Jean Mitterling: is a RN at USP Lewisburg and works in the Medical Dept. She is being sued in her official and Individual Capacity
- WARDEN EBBERT: is the Warden at USP Lewisburg and is in charge of the training of staff at the facility the Warden is being sued in his official, Individual Capacity
- CAPTAIN KOMKLE: is the Captain at USP Lewisburg he is being sued in his Individual and official Capacity KomKLE is in charge of Training staff at USP Lewisburg
- Associate Warden CUWSINO: Mrs Cuwsino is the associate warden in charge of Programs at USP Lewisburg
- Lori Cunningham: is the Attorney over USP Lewisburg and is being sued in her official Capacity, Individual Capacity.
- Counselor Marr: is the Counselor in D-unit he is being sued in his official and Individual Capacity
- Unit Manager Wambeldorf is a Unit Manager at USP Lewisburg he is being sued in his official and Individual Capacity

Parties

Associate Wardens: A.W. Davis is an associate warden at USP Lewisburg. A.W. Davis is being sued in his individual and official Capacity. A.W. Davis is supervisor of

Associate Warden A.W. Hozaple is an associate warden at USP Lewisburg. A.W. Hozaple is being sued in his individual and official Capacity. A.W. Hozaple is a supervisor of

Associate Warden: A.W. CUWSINO is an associate warden at USP Lewisburg. A.W. CUWSINO is being sued in her individual and official Capacity. A.W. CUWSINO is a supervisor over SMU Program

Lieutenants: Lt. Shirk is a Lieutenant at USP Lewisburg

Lieutenant Shirk is being sued in his official and Individual Capacity

Lt. Kemmer is being sued in his official and Individual Capacity

Lt. Sebal is being sued in his official and Individual Capacity

Lt. White is being sued in his official and Individual Capacity

Lt. Miller is being sued in his official and Individual Capacity

Lt. Sailor is being sued in his official and Individual Capacity

~~3e~~

3e

Liability

Warden Ebbert refused to get staff to take photo's of my Visible injuries in an effort to not have to report them in his Investigation Report to the Regional Directors office, Regional Counsel.

Warden Ebbert did not want the "Damage" and injuries that the Placement of inmates in Ambulatory Restraints, Hard Restraints Causes revealed to the Regional office or public record.

Warden Ebbert is aware of the many many inmates who are injured as a result of his staff's placing inmates in restraints, Misapplication of the Restraints that his staff have been using as a punishment tool by applying the Restraints Extremely tight on inmates

Staff don't have a right to give a inmate Nerve Damage just because a inmate violated a FBOP rule or regulation.

(32)

Negligence, Deliberate Indifference

"Proof Restraints were too tight"

According to the Medical Records the Restraints had to be re-adjusted several times, the inmate/Plaintiff requested for the Lieutenants, medical staff to loosen the Restraints because they caused his hands to swell up and were causing bruises, Swelling, Abrasions, Cuts. (See Medical Record Exhibit.)

The fact that all plaintiffs experienced the swelling of their hands is obvious proof

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Sworn
Affidavit

On 2-10-16 I was placed in 4 point Hard Restraints after being in a fight with my cellie. There was no justifiable reason for me to be put in Hard Restraints. Staff only wanted to severely punish me for calling them Racists. Even when I was placed in the Restraints Lt Scott would routinely come in and re-tighten the restraints to apply more pressure on my wrist and ankles. Other Luitenants would come in with him and taunt, laugh at me as they could see that I was in excruciating pain. One of the Luitenants even opened the window so I could freeze. They even joked about how cold it was in the room. One Lt. stated that "if you think thats cold" the last inmate had frozen piss stuck to his back. Other staff were pressing down on my shoulders after I told them I had shoulder injuries to try to put me in more pain. I could see that there was a urinal in the window and a cup with water in it, but when I would ask the Luitenants could I use the urinal they would say "Hell No use it on yourself Yeah piss on yourself that what you have to do in Restraints. So I was forced to Urinate and deficate on myself for 2 days and left like that. The staff also didn't feed me at all for 2 1/2 days. But they lied on my medical Record saying that I refused all meals, urinal, water (Nothing was recorded)

Once staff came in I was convulsing because of the cold I was shaking, trembling and my teeth were chattering I couldn't control it. Even though staff saw me in that condition they just smile and laughed at me, and taunted me even more. They pretended like it was not cold and told me that I had somehow manipulated the handcuffs when I never did such a thing. Staff were trying to blame me for the bruises, cuts, abrasions that they had caused by tightening the restraints on my legs and wrist, ankles. My hands were swollen, and my ankles were swollen and cut real deep on the ankle bone. After 2 1/2 days I was placed into Ambulatory restraints for a day 1/2 and the restraints were again placed very tight on me and caused my wrist, ankles to swell up again. Staff continued to try to justify the torture that they put me through by trying to put the blame on me.

I complained about the Hard restraints and Ambulatory restraints being too tight several times. Even medical staff were in cahoots with the Lieutenants threatening me saying you shouldn't have gotten yourself in restraints and saying it was my fault I was being punished.

40
Certificate of Service

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of US and Title 28 USC § 1746 Kenneth R. Keith

(Faked Assault)

Affidavit

On 12-4-15 Officer K. Stugart, Officer Rummel came to my door to take us out of recreation. Me and my cellie cuffed up and the slide door came open. I told staff that I wasn't going to Recreation that day. Officer K. Stugart then violently snatched me out of the cell into the hallway and began to pull downward on my handcuffs. I got irritated and told officer K. Stugart to stop pulling on my handcuffs like that. Officer Rummel then threatened me saying he should have threw you on your head on the floor. All of us argued back and forth for a second as other officers searched our cell. They then said ya'll are banged for Recreation meaning they took our Recreation. Staff then placed us back in the cell and secured the doors. As I went to get my handcuffs taken off first I stuck my handcuffed hands outside of the food slot and officer K. Stugart hesitated for a minute then started trying to open my hand saying open your hand, open your hand. I then flashed my hands open to show him that I had nothing inside my hand. Officer K. Stugart stuck his finger inside my hand to try to make it look like I had grabbed him. I then snatched away from him, because I saw, realized what he was trying to do. Officer K. Stugart then called officer Holmer over to assist him and told him to block the camera view. That's when he pushed his hand down in a downward motion and then said Assault he assaulted me.

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The whole time I was standing there watching officer K. Stugart. I said why didn't you uncuff me and you know that I didn't assault you you liar I didn't even touch you your lying on me. So when the "Assault" was alleged all the other staff members were routinely escorting all of the other inmates out to rec. Not one officer was called to assist or help officer K. Stugart. All staff knew that there was no assault that occurred. I had no reason to assault anybody at all and didn't. Officer K. Stugart wrote a fake incident report for 224 Assault on staff. The 224 was sent to the FBI for prosecution but they declined after review of the video footage. Later DHO found me guilty of the 224 Assault for no reason whatsoever other than the fact that a officer alleged it occurred. I requested staff Representative, but he never came to help me prepare for the ~~SMA~~ hearing or DHO hearing so I refused to go to the hearing.

472
Certificate of Service

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the US. and title 28 USC § 1746. Kenneth L. Reed

Relief Sought

I am asking for a total of \$25,000,000 total
1.5 million for each plaintiff who are under the
Head person who is Kenneth Roshawn Reid who will
recieve the majority of the Damages.

12.5 million in punitive damages

Injunctive relief - for the placement of inmates in restraints stop at USP Lewisburg

12.5 million in Compensatory Damages

Head plaintiff will sort Damages if awarded

~~43~~

43

Certificate of Service

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the United States and under title 28 USC

§ 1746 Kenneth R. Reid

Kenneth Rushawn Reid

USP Lewisburg

P.O. BOX 1000

Lewisburg, PA 17837

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Inmate Name: Kenneth Roshaun Reid
Register Number: 11485-171
United States Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

No Fee
Enclosed
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